

Notice

Environmental Protection Act 1994

Direction Notice

This direction notice is issued by an authorised person pursuant to section 363B of the Environmental Protection Act 1994.

Endocoal Limited
Level 4 Suite A
235 Edward Street
Brisbane, QLD, 4000

Our reference: C-CPLRC-100443402 – STAT -E-100443403

4 October 2023

Take notice: that under the *Environmental Protection Act 1994* (**the Act**) this direction notice is issued to ENDOCOAL LIMITED (ACN 132 183 281) (**Endocoal**) by an authorised person under section 363B of the Act.

This direction notice is issued in relation to the activities of Endocoal at the Meteor Downs South Coal Mine (**MDS**) on land described as mining lease (**ML**) 70452.

A. Grounds

This direction notice is issued on the grounds that as an authorised person, I am satisfied on reasonable grounds that:

- 1) Endocoal has contravened a prescribed provision, namely section 426 (1) of the Act which states “a person must not carry out an environmentally relevant activity unless the person holds, or is acting under, an environmental authority for the activity”, in particular:
 - a) section 18 of the Act states that an environmentally relevant activity (**ERA**) includes a resource activity as defined under section 107, and section 107 of the Act provides that a resource activity is an activity that involves a mining activity;
 - b) Endocoal is the holder of environmental authority EPML00559513 (**the EA**), which relates to ML70452;
 - c) the EA authorises, amongst other things, ERA13 – Mining Black Coal.
- 2) The ERA of Mining Black Coal has been and continues to be carried out on ML70452 in areas which are not authorised by the EA, and Endocoal is not acting under an EA (**the Unauthorised ERA**), as depicted by the red polygon and labelled ‘ROM Pad’ in **Annexure A** to this notice (**the Unauthorised Disturbance Area**).
- 3) It is likely the contravention of section 426 (1) of the Act will continue.
- 4) Ceasing carrying out the Unauthorised ERA in the Unauthorised Disturbance Area, and either obtaining an environmental authority (**EA**) to authorise the Unauthorised ERA being carried out, or rehabilitating the Unauthorised Disturbance Area, would remedy the contravention of section 426 (1) of the Act.



- 5) The matter relating to the contravention can be remedied and it is appropriate to give Endocoal an opportunity to remedy the matter.

The facts and circumstances forming the basis for the grounds are:

1. Endocoal holds 50% of ML70452. Endocoal Limited was the sole holder of the EA from 04 February 2015 until Sojitz Coal Mining Pty Ltd became the primary holder on 31 January 2020.
2. The EA authorises ERA 13 – Mining Black Coal and ancillary ERAs, namely ERA 63 - Sewage Treatment 1 (a-i), ERA 16 – Extraction and Screening 2(b), ERA 8 – Chemical Storage 3.
3. Condition A2 of the EA states:
“In carrying out the mining activity authorised by this environmental authority, the holder of this environmental authority must comply with Schedule 1 - Figure 1: Meteor Downs Life of Mine Disturbance”.
4. *Schedule 1 - Figure 1: Meteor Downs Life of Mine Disturbance* is **Annexure B** to this notice.
5. The Unauthorised ERA has been conducted, and continues to be conducted, in areas on ML70452 that are not authorised by the EA, which is identified by the red polygon named ‘ROM pad’ as depicted in the Unauthorised Disturbance Area shown in **Annexure A** to this notice.
6. Disturbance in the Unauthorised Disturbance Area associated with the run of mine (**ROM**) pad/topsoil storage area was determined by the department to have occurred approximately between 16 December 2019 and 18 December 2019.
7. On 30 January 2023, departmental officers conducted a site inspection at MDS and confirmed the Unauthorised ERA was being carried out in the Unauthorised Disturbance Area; outside the approved disturbance footprint (as per condition A2 of the EA) in the ROM pad/topsoil storage area.
8. Under section 426 (1) of the Act, it is an offence for a person to carry out an ERA unless the person holds, or is acting under, an EA for the activity.
9. Endocoal have unlawfully carried out and continue to carry out the Unauthorised ERA in the Unauthorised Disturbance Area, on ML70452.

B. Reasonable Steps

As an authorised person, I consider that the following reasonable steps are necessary to remedy the contravention of section 426 (1) of the Act:

1. Within 14 days from the date of this notice, Endocoal must cease carrying out the Unauthorised ERA in the Unauthorised Disturbance Area unless Endocoal is the holder of or is acting under an EA for ERA 13.
2. Endocoal must notify the department in writing within 24 hours of ceasing the Unauthorised ERA in accordance with requirement 1.
3. By 4:00pm on 19 December 2023, Endocoal must:
 - a) Commence rehabilitation of the Unauthorised Disturbance Area in accordance with Table 1 and complete the rehabilitation within 12 months; or alternatively
 - b) Lodge with the department a properly made amendment application for an EA for the Unauthorised ERA in the Unauthorised Disturbance Area; and

- c) Do all things necessary to progress the application; and
- d) If the application is refused, commence rehabilitation of the Unauthorised Disturbance Area in accordance with Table 1, and complete the rehabilitation within 12 months.

Table 1: Rehabilitation requirements

Milestone	Completion Criteria	Timeframe
Remediation of contaminated land	a) Contaminated land investigations have been carried out; b) Any contaminated water (e.g. affected by hydrocarbons) has been treated on site or removed; c) Any contaminated materials have been lawfully removed and disposed of; d) On-site remediation of hydrocarbon contaminated soils has been completed; and e) Completion of validation testing to confirm that contaminated soils have been lawfully removed/remediated.	Within 12 months of reasonable step 3(a) or 3(d) commencing
Landform development and reshaping/reprofiling	a) Bulk earthworks to achieve preclearing landform and slopes have been completed; b) Completion of subsoils placement over waste rock; c) Completion of reshaping to achieve pre-disturbance landform. General reshaping to achieve pre-clearing landform has been completed; d) Installation of erosion and sediment control systems; and e) The final landform surveyed and certified by a suitably qualified person as per construction designs.	
Surface preparation	a) Remediation of any erosion has been completed; b) Growth media (topsoil) has been sourced, carted and spread; c) Ameliorants to improve or stabilise soils has been added; and d) Deep ripping has been undertaken.	
Depending on the regional ecosystem impacted in the Unapproved Disturbance Area, revegetation to achieve reestablishment of	a) Direct seeding completed; b) Fertiliser has been applied; c) Tube stock planted; and d) A monitoring program developed and commenced.	

the following regional ecosystems: • 11.8.11 – <i>Dichanthium sericeum</i> grassland on Cainozoic igneous rocks, • 11.8.5 - <i>Eucalyptus orgadophila</i> open woodland on Cainozoic igneous rocks.		
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C. Reviews and appeals

The provisions regarding reviews of decisions and appeals are found in sections 519 to 539 of the Act.

A person who is dissatisfied with an original decision made by the Department of Environment and Science (the department) may apply to have that decision internally reviewed.

Information about initiating an appeal in relation to this notice is contained within the [Internal Reviews and Appeals Information Sheet](#) (available at www.qld.gov.au using the publication number ESR /2015/1742 as a search term).

A request for review or appeal is to be made using the approved form '[Application for review of original decision](#)' (available at www.qld.gov.au using the publication number ESR/2015/1573 as a search term).

Applications for reviews are to be sent to Permit and Licence Management, Department of Environment and Science: via email at palm@des.qld.gov.au , or by mail to the following address: GPO. Box 2454, Brisbane, QLD, 4001.

Where an application has been made for a decision to be reviewed, the applicant may also apply to the relevant court for a stay of the decision to secure the effectiveness of the review.

Once the original decision has been reviewed, a person who is dissatisfied with the review decision may be able to appeal against that decision to the relevant court within 22 business days after receiving notice of the review decision.

A person whose interests are or would be adversely affected by a decision of the department may be able to request a statement of reasons for a decision or a statutory order review under the *Judicial Review Act 1991*.

You may have other legal rights or obligations and should seek your own legal advice.

D. Public Register

Pursuant to section 540 of the EP Act, the Department is required to maintain a register of certain documents and information authorised under the EP Act. A copy of this document will be kept on the public register. The register is available for inspection by members of the public who are able to take extracts, or copies of the documents from the register. Documents that are required to be kept on the register are published in their entirety, unless alteration is required by the EP Act. There is no general discretion allowing the Department to withhold documents or information required to be kept on the public register. For more information on the

Department's public register, search 'public register' at www.qld.gov.au. For queries about privacy matters please email privacy@des.qld.gov.au or telephone 13 74 68.

E. Penalties

It is important that you know the impact to you as a corporation for not meeting your obligations.

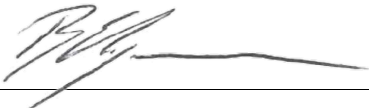
Under section 363E of the Act, is an offence to fail to comply with a Direction Notice unless a corporation has a reasonable excuse.

- The maximum penalty for wilfully contravening a direction notice is 1,665 penalty units, totalling \$1,288,710 for a corporation.
- The maximum penalty for contravening a direction notice is 600 penalty units, \$464,400 for a corporation.

Section 3 of the Penalties and Sentences Regulation 2015 prescribes the monetary value of a penalty unit.

The department may also consider alternative compliance or enforcement action in relation to the offences that are the subject of this notice.

Should you have any queries in relation to the notice, please contact Scott Botting on telephone number (07) 4837 3499.



Signature

4 October 2023

Date

Brianna Ryan
A/Compliance Delivery Manager
Department of Environment and Science
Environmental Protection Act 1994

Enquiries:
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Annexure A – Unauthorised Disturbance Area



